

REMARKS

A Final Office Action was mailed on March 6, 2009. Claims 1-10 are pending.

Claims 1-6 and 8-10 stand rejected under 35 U.S.C. §102(e) as being anticipated by Maissel et al (U.S. 2004/0049787 A1).

Amended claim 1 recites the limitations of “managing a list of preferred programs in accordance with predetermined criteria, *without requiring input by a user*, and in which at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium. No new matter has been added, support for the amendments can be found at least on page 2, lines 21-23. Independent claims 6 and 9 recite similar limitations.

Applicant respectfully submits that the cited Maissel fails to teach or suggest the above limitations. As the Final Office indicates Maissel in paragraph 134 teaches that the user profile and preferences may be based upon multiple viewer’s preferences within a household. However, applicants note that “other users” as claimed is defined in the specification, on page, 2, lines 23-25, as “those that do not use the receiver on which the method is performed.” Thus, Maissel fails to teach the above limitation.

Still further, as the Final Office indicates Maissel in paragraphs 154-155 teaches that the *user may select other profiles...* to be used for determining preferred programming. The present invention manages a list of preferred programs in accordance with predetermined criteria, *without requiring input by a user...* Thus, Maissel teaches away from the present invention.

The Manual For Patenting Examining Procedure (MPEP) § 2131 clearly sets forth the standard for rejecting a claim under 35 U.S.C. § 102(b). “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (MPEP § 2131, quoting Verdegaal Bros. v. Union Oil Co. of California 2 USPQ2d 1051, 1053 (Fed Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the ...claim.” (MPEP § 2131, quoting Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). “The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e. identity of terminology is not required.” (MPEP § 2131, citing In re Bond, 15 USPQ2d 1566 (Fed. Cir. 1990)).

Since Maissel does not teach all of the limitations of independent claims 1, 6 and 9, it cannot anticipate the present invention. For at least the above cited reasons, Applicant submits that Claims 1, 6 and 9 are patentable over Maissel.

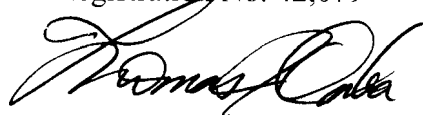
Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Maissel.

With regard to claims 2-5, 7-8 and 10 these claims depend from the independent claim discussed above, which have been shown to be allowable in view of the cited reference. Accordingly, each of claims 2-5, 7-8 and 10 are also allowable by virtue of its dependence from an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. Entry of this amendment and a Notice of Allowance is respectfully requested.

Respectfully submitted,

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